(1) (5) SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. /2006

499/07

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

PETITIONER : Ashok Kumar Suryavansi
Aged about 48 years, S/o Melau Ram
Residence at village - Ghuru,
Tahsil & District - Bilaspur (C.G.)

VERSUS

RESPONDENTS :

1. The Chairman
Chhattisgarh Housing Board
Shankar Nagar, Distt.-Raipur (C.G.)
2. The Executive Engineer Chhattisgarh
Housing Board Project Division
Raigarh (Chhattisgarh)
3. The Assistant Engineer
C.I.D.C. (Housing Section)
Raigarh (C.G.)
4. The Collector
District Office
Raigarh (C.G.)
5. Sri J.S. Dikhsit
Under Secretary
Environment & Urban Development
Department, Ministry, Raipur (C.G.)
6. The Project Officer
District Town Development Corporation
Raigarh (C.G.)
7. The Chief Executive Officer
Chhattisgarh Housing Board
Raipur (C.G.)

P.R. No. 6736/06
Presented by Shri A.K. Shrivastava
dated 25-11-06

RECEIVED COPY
Baldev 25-11-06
CLERK to A. G. BILASPUR

Contd..

Kumar

8. The Executive Engineer
   Chhattigarh Housing Board Bilaspur
   Division, Bilaspur (C.G.)
9. The Collector
   Bilaspur (C.G.)

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT, DIRECTION AND / OR ORDERS

DETAILS OF THE PETITION :

(10)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 499 of 2007

Petitioner : Ashok Kumar Suryavansi

Versus

Respondents : The Chairman & others

Shri Anil Kumar Gupta, Advocate for the petitioner.

Shri Arvind Dubey, Panel lawyer for the respondents No. 4 and 9.

None for the respondents No. 2, 3 and 4.

O R D E R

(Passed on this 25th day of January, 2007)

1. According to learned counsel for the petitioner, the petitioner was appointed on daily wages basis for working as Plumber in the year 1987 at Bilaspur. The petitioner was, thereafter, granted assignment at Raigarh. The status of the petitioner as daily wager continued when the petitioner started working at Raigarh.

2. By order dated 31.12.2004 the services of the petitioner as daily wager was discontinued on the ground that the petitioner had not shown interest in the working and remained absent from the work as and when he was required. The petitioner has challenged the impugned transfer order dated 7.1.2003 (Annexure P/1) and the termination order dated 31.12.2004 (Annexure P/2) by this petition filed on 24.11.2006 seeking quashing of the impugned orders on the ground that the handing over of the services of the petitioner to the other district was bad and as such no order could have been passed by the authorities at Raigarh.

3. Be that as it may, the services of the petitioner was never regularized and he was engaged only on daily wages basis.

4. In view of the settled position of law as enunciated by a Constitutional Bench of the Supreme Court in the case of ***Secretary, State of Karnataka and others Vs. Umadevi***[1] which was followed later on in various decisions by the Supreme Court, viz. ***Accounts Officer (A&I) A.P.SRTC and others vs. P. Chandra Sekhara Rao and others***[2], ***Surinder Prasad Tiwari vs. U.P. Rajya Krishi Utpadan Mandi Parishad and others***[3], ***Nagar Mahapalika (now Municipal Corpn.) vs. State of U.P. and others***[4] and ***U.P. State Road Transport Corporation vs. Man Singh***[5], daily rated, temporary or ad hoc appointees have no right to the post as their appointment was not in accordance with the constitutional scheme of the appointment and not in accordance with any Rules, Regulations, as framed under the proviso to Article 309 of the Constitution of India.

5. In the present petition, appointments of the petitioner was on daily wages basis on availability of work, de-hors the constitutional scheme and as such, the appointment of the petitioner came to an end.

6. For the reasons above-stated and as per the dicta laid down by the Supreme Court, the petitioner is not entitled for reappointment/ reinstatement in the service.

9. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

---

1 (2006) 4 SCC 1
2 (2006) 7 SCC 488
3 (2006) 7 SCC 684
4 2006 AIR SCW 2497
5 2006 AIR SCW 5159

Thakur